

(i) Customs-approved metering and sampling installations provided by the importer;

(ii) Shore tank gauging; or

(iii) Weighing for trucks and railroad cars.

(2) Vessel ullages shall be taken in every case unless the port director determines that it is impracticable to do so for safety or technological reasons. Ullages may be taken for trucks and railroad cars if weighing or shore tank gauging is not available as a method of control. Vessel ullages will not be used to determine the quantity unladen unless none of the other methods provided for in this paragraph is available or adequate.

(3) The metering and sampling installations described in paragraph (a)(1)(i) of this section are approved by Customs on a case-by-case basis. Importers seeking approval shall send a complete description of the installation to the port director who, with the concurrence of the Director, Laboratory & Scientific Services, or his designee, shall give approval or shall state, in writing, the reasons for disapproval. Approved installations are subject to periodic verification by Customs. Importers desiring to modify a Customs-approved installation shall obtain Customs approval beforehand.

(b) *Duties of Customs officers.* Customs officers may perform or witness ullaging and gauging as follows:

(1) Opening ullages.

(2) Closing ullages of carriers which have not completely discharged cargo, or if an importer or carrier requests Customs to witness closing ullages because of special problems.

(3) Shore tank gauges performed by company or related-party employees.

(4) Between 5 and 10 per cent of shore tank gauges conducted by commercial gaugers.

(5) Shore tank gauges, including those conducted by a commercial gauger if no carrier ullages are taken.

(c) *Manifest discrepancies.* Manifest discrepancies (shortages and overages) shall be reported by or on behalf of the carrier in the manner specified in §4.12 of this chapter. If a reported discrepancy is not explained to the satisfaction of the port director, the master or other person in charge, or the owner of

the vessel or vehicle, or any person directly or indirectly responsible for the discrepancy, will be subject to the imposition of the appropriate penalty under section 460, 584, or 592, Tariff Act of 1930, as amended (19 U.S.C. 1460, 1584, 1592).

[T.D. 80-142, 45 FR 36384, May 30, 1980, as amended by T.D. 82-224, 47 FR 53728, Nov. 29, 1982; T.D. 87-39, 52 FR 9790, Mar. 26, 1987; T.D. 89-1, 53 FR 51268, Dec. 21, 1988; T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

#### § 151.43 [Reserved]

#### § 151.44 Storage tanks.

(a) *Plans and gauge tables.* When petroleum or petroleum products subject to duty at a specific rate per barrel are imported in bulk in tank vessels and are to be transferred into shore storage tanks, both the plans of each shore tank showing all outlets and inlets and the gauge table for each tank showing its capacity in barrels per centimeter or tenth of a centimeter of height shall be certified as correct by the proprietor of the tank. One set of these plans and gauge tables so certified shall be kept on file at the plant of the oil company and shall be available at all times to Customs officers. Another certified set of the shore tank plans and gauge tables shall be filed with the port director for use in verifying the Customs officers' reports. The port director may require such additional sets of shore tank plans, including subsidiary pipeline plans, and gauge tables as he may deem necessary. The storage tank proprietor shall maintain the plans and gauge tables for 3 years after discontinuing use of the storage tanks as bonded warehouses for the storage of imported petroleum or petroleum products.

(b) *Tags required on valves.* The inlet and outlet valves of each tank shall have tags of a permanent type affixed by the proprietor or lessee indicating the use of the valves.

(c) *Verification of gauge tables.* Whenever he has reason to suspect their reliability, the port director may require the measurement and calibrations shown on the gauge tables to be verified by a Customs officer. If no qualified Customs officer is available,

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the port director may accept an independent certification verifying the measurements and calibrations. The independent verification shall be performed at the expense of the storage tank proprietor.

[T.D. 80-142, 45 FR 36384, May 30, 1980, as amended by T.D. 89-1, 53 FR 51268, Dec. 21, 1988]

### § 151.45 Storage tanks bonded as warehouses.

(a) *Application.* Tanks for the storage of imported petroleum or petroleum products in bulk may be bonded as warehouses of class 2 if to be used exclusively for the storage of petroleum or petroleum products belonging or consigned to the owner or lessee of the tank. In addition to the documents and bonds required to be filed with the application to bond (see § 19.2 of this chapter), the certified plans and gauge tables required by § 151.44 shall be filed.

(b) *Removal of nonbonded petroleum.* If a bonded tank is not empty at the time the first importation of bonded petroleum or petroleum products is to be stored therein, the amount of nonbonded petroleum or petroleum products in the tank shall be withdrawn by the proprietor as soon as possible. The request to withdraw shall be in the form of a letter and no formal withdrawal need be filed. Domestic or duty-paid petroleum or petroleum products shall not thereafter be stored in the tank as long as the tank remains bonded.

(c) *Information on warehouse withdrawal.* Warehouse withdrawals of petroleum or petroleum products from bonded tanks shall show the information specified in § 151.41, as well as the designation of the tank from which the merchandise is to be withdrawn. Such withdrawals may be made for “\_\_\_ U.S. gallons, more or less”, but in no case may the estimate vary by more than three percent from the gross quantity unladen.

[T.D. 80-142, 45 FR 36384, May 30, 1980, as amended by T.D. 87-39, 52 FR 9790, Mar. 26, 1987]

### § 151.46 Allowance for detectable moisture and impurities.

An allowance for all detectable moisture and impurities present in or upon

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imported petroleum or petroleum products shall be made in accordance with § 158.13 of this chapter.

[T.D. 90-78, 55 FR 40167, Oct. 2, 1990]

### § 151.47 Optional entry of net quantity of petroleum or petroleum products.

Instead of stating the gross quantity of petroleum or petroleum products on the entry summary, the importer may state the net quantity. The analytical report from the Customs-accredited commercial laboratory shall be filed with the entry summary.

[T.D. 87-39, 52 FR 9790, Mar. 26, 1987, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

## Subpart D—Metal-Bearing Ores and Other Metal-Bearing Materials

### § 151.51 Sampling requirements.

(a) *General.* Except as provided in paragraph (b) of this section, when metal-bearing ores and other metal-bearing materials which are classifiable under Chapter 26, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), are entered for consumption or warehousing at the port of first arrival, they shall be sampled for assay and moisture purposes in accordance with § 151.52. If proper facilities for weighing or sampling are not available at the port of entry, the merchandise shall be transported under bond to the place of sampling. The sampling or weighing of metal-bearing ores or materials at any place other than the port of entry shall be at the expense of the parties in interest.

(b) *Ores of low metal content.* When, on the basis of invoice information, the nature of any available sample, knowledge of prior importations of similar materials, and other data, the port director is satisfied that metal-bearing ores entered under heading 2617, HTSUS, as containing less than 1 percent of metals dutiable under headings 2603, 2607, and 2608, HTSUS, are properly entered, he may liquidate the entry on the basis of the assay information contained in the entry papers. However, the sampling and testing procedures prescribed in §§ 151.52 and 151.54